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Attorneys for Plaintiff
PNC BANK, NATIONAL ASSOCIATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PNC BANK, NATIONAL ASSOCIATION, a
National Banking Association,

Plaintiff,
v.

STARFIRE CONDOMINIUM OWNERS'
ASSOCIATION; CHERYL FLEMING; DOES 1
through 10, inclusive; ROES Business Entities 1
through 10, inclusive; and all others who claim
interest in the subject property located at 8725 West
Flamingo Road, #113, Las Vegas, Nevada, 89147,

Defendants.

STARFIRE CONDOMINIUM OWNERS'
ASSOCIATION, a Nevada non-profit corporation,

Counterclaimant,
v.

PNC BANK, NATIONAL ASSOCIATION, a
National Banking Association,

Counter-Defendant.

STARFIRE CONDOMINIUM OWNERS'
ASSOCIATION, a Nevada non-profit corporation,

Third-Party Plaintiff,
v.

DANNY FRANK HARRINGTON a/k/a/ DANIEL
F. HARRINGTON, an individual; NAM TU

CASE NO. 2:15-cv-00108-RFB-CWH

STIPULATION AND ORDER
TO STAY CASE



HARRINGTON, an individual; REPUBLIC MORTGAGE, A DIVISION OF OLD KENT MORTGAGE COMPANY, a foreign corporation; HOUSEHOLD FINANCE REALTY CORPORATION OF NEVADA, a foreign corporation; DOE INDIVIDUALS I through X, inclusive; and ROE CORPORATIONS I through I, inclusive,

Third-Party Defendants.

STIPULATION AND ORDER TO STAY CASE

Plaintiff/Counter-Defendant, PNC BANK, NATIONAL ASSOCIATION, Defendant/Counterclaimant, STARFIRE CONDOMINIUM OWNERS' ASSOCIATION, and Defendant CHERYL FLEMING, either individually or by and through their respective counsel of record, hereby stipulate as follows:

1. This lawsuit is one of hundreds where the parties dispute the effect of a non-judicial foreclosure sale held by an HOA pursuant to NRS 116.3116 et seq. (the "Statute") for an owner's failure to pay HOA assessments.
2. On August 12, 2016, the Ninth Circuit issued a decision in *Bourne Valley Court Trust v. Wells Fargo Bank, NA.*, No. 15-15233, slip op. (9th Cir. August 12, 2016), holding that NRS 116.3116 et seq. is facially unconstitutional under the due process clause of the Fourteenth Amendment to the United States Constitution.
3. The Parties dispute the impact that *Bourne Valley* has on the claims in this lawsuit.
4. Counsel for the petitioner in *Bourne Valley* has stated that he will be filing a petition for rehearing by August 26, 2016, and in connection therewith, requested that the Ninth Circuit stay publication of the opinion.
5. The Nevada Supreme Court has set oral argument for September 8, 2016, in *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortgage*, Nevada Supreme Court case 68630, Nevada District Court case A-13-688410-C. This case addresses the same issues as *Bourne Valley*.
6. On information and belief, the Nevada Supreme Court will expedite issuing an opinion in in *Saticoy Bay LLC Series 350 Durango 104* that will construe NRS 116.3116 et seq. and



eliminate substantial uncertainty that currently exists in this area of the law.

7. Staying this case pending the Nevada Supreme Court and Ninth Circuit's opinion will avoid premature arguments or briefing on the *Bourne Valley* decision and will enable the Parties to present argument and evidence to this Court with complete legal authority, thereby promoting the most efficient use of the Court's and the Parties' limited resources.
8. Because the oral argument in *Saticoy Bay LLC Series 350 Durango 104* is imminent and the Nevada Supreme Court is certainly aware of the hundreds of lawsuits that will be affected, if not resolved, by the Nevada Supreme Court's decision, the stay is not indefinite.
9. Accordingly, the parties request that all proceedings in this lawsuit be stayed, and all upcoming deadlines, hearings, and conferences be vacated.
10. The parties agree that Defendant Cheryl Fleming will maintain the property at issue in its current condition and will abide by all obligations and responsibilities arising from Plaintiff's alleged ownership interest in the property, including but not limited to the payment of all applicable fees, assessments, taxes, and other financial obligations.
11. The Parties agree that upon written request and reasonable notice, Defendant Cheryl Fleming shall allow PNC access to the property to inspect and ensure the property is being reasonably maintained.
12. The Parties agree that PNC will not pursue foreclosure against the property at issue during the stay.
13. The Parties agree that Defendant Cheryl Fleming will not sell, transfer, or convey the property while this case is stayed.
14. This stay will expire after the Ninth Circuit issues a mandate in *Bourne Valley* and the Nevada Supreme Court issues an opinion in *Saticoy Bay LLC Series 350 Durango 104*.
15. Within fifteen (15) days after the mandate is issued, the parties shall file a notice informing the Court that the stay has expired and requesting that the Court set a status hearing.

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16. If the Court desires, the parties request that the Court set a status check for approximately 90 days from the date of entry of this Stipulation and Order.

Dated: August 31, 2016

Dated: August 31, 2016

WOLFE & WYMAN, LLP

ALESSI & KOENIG, LLC

By: /s/ Gregory S. Bean

By: /s/ Steven T. Loizzi, Jr.

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Counterclaimant,

Attorneys for Plaintiff/Counter-Defendant,

Starfire Condominium Owners'

PNC Bank, National Association

Association

Dated: August 31, 2016

By: /s/ Cheryl Fleming

Cheryl Fleming

8725 West Flamingo Road, Unit 113

Las Vegas, NV 89147

Defendant

ORDER

IT IS SO ORDERED.

DATED: September 2, 2016.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE